

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
MCALLEN DIVISION

ISABEL MARROQUIN  
*Plaintiff*

v.

WALMART INC.  
*Defendant*

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CIVIL ACTION NO. 7:22-cv-00091

JURY REQUESTED

**NOTICE OF REMOVAL OF ACTION  
UNDER 28 U.S.C. §§ 1332 and 1441 (DIVERSITY)**

TO THE HONORABLE UNITED STATES DISTRICT JUDGE:

COMES NOW Walmart Inc., Defendant in the above entitled and numbered cause, and files this Notice of Removal of the present cause from the 381<sup>st</sup> Judicial District Court of Starr County, Texas, in which it is now pending, to the United States District Court for the Southern District of Texas, McAllen Division, showing the Court in support as follows:

1. This cause was commenced in the 381<sup>st</sup> Judicial District Court of Starr County, Texas, on December 1, 2021, when Plaintiff's Original Petition was filed in Cause No. DC-21-545 wherein Plaintiff named Walmart Inc. as the sole Defendant. A copy of Plaintiff's Original Petition is attached hereto as Exhibit A, and is incorporated herein for all purposes.

2. Defendant Walmart Inc. was served with a copy of Plaintiff's Original Petition on December 2, 2021, and Defendant Walmart Inc. filed a responsive pleading in State Court on December 10, 2021, a copy of which is attached hereto as Exhibit B, and is incorporated herein for all purposes.

3. Plaintiff asserts premises liability and negligence claims against Defendant Walmart Inc. allegedly arising from a trip-and-fall accident which occurred on October 16, 2021, while Plaintiff was a patron at Defendant's premises located at 4534 East US Highway 83, Rio Grande City in Starr County, Texas. Exhibit A, ¶¶ 7-8.

4. Plaintiff resides in Rio Grande City, Starr County, Texas. *Id.* at ¶ 3. Plaintiff was at the time of the filing of this lawsuit, and remains, a citizen of the State of Texas.

5. Walmart Inc. was, at the time of the filing of Plaintiff's Original Petition, and is at the time of filing of this Notice of Removal, a Delaware Corporation with its principal office and residence in Bentonville, Arkansas. Defendant Walmart Inc. is not a citizen of the State of Texas.

6. Complete diversity of citizenship therefore exists between the adverse parties in the present cause for the purposes of federal removal jurisdiction pursuant to 28 U.S.C. §1441.

7. In Plaintiff's Original Petition, she stated that "her damages do not exceed \$75,000." Exhibit A at ¶ 2. However, on February 22, 2022, Plaintiff served Initial Disclosures on Defendant pursuant to Tex. R. Civ. P. 194.2 wherein she alleged entitlement to recovery from Defendant for economic damages in the amount of \$99,130.00 solely for past and future medical expenses. A copy of Plaintiff's Initial Disclosures is attached here to as Exhibit C.

8. In addition to her claims for recovery of past and future medical expenses, Plaintiff also seeks monetary damages from Defendant for past and future physical pain and mental anguish as well as for past and future physical impairment. Exhibit "A" at ¶ 15.

9. Based on the foregoing, the amount in controversy therefore exceeds \$75,000.00, exclusive of interest and costs, and therefore this action is one over which this Court has original jurisdiction under the provisions of Title 28, United States Code §§ 1332 and 1441(a) in that it is a civil action between completely diverse parties and that amount in controversy exceeds the sum or value of \$75,000.00, exclusive of interest and costs.

10. This Notice of Removal is timely filed in accordance with 28 U.S.C. §1446(b), in that it is filed within thirty (30) days of the service of Plaintiff's Initial Disclosures on Defendant, and within one year of the initial filing of the lawsuit.

11. Upon filing of this Notice of Removal of this cause, written notice of the filing by Defendant to Plaintiff has been provided as required by law. A copy of this Notice is also being filed with the Clerk of the State Court in which this cause was originally filed.

12. Defendant hereby requests a trial by jury.

WHEREFORE, PREMISES CONSIDERED, Defendant Walmart Inc. prays for removal of the above entitled and numbered cause from the 381<sup>st</sup> Judicial District Court of Starr County, Texas to this Honorable Court.

Respectfully Submitted,

/s/Jaime A. Saenz

JAIME A. SAENZ

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ATTORNEYS FOR DEFENDANT  
WALMART INC.

**CERTIFICATE OF SERVICE**

I hereby certify that on this 22nd day of March 2022 I electronically filed the foregoing with the Clerk of Court for the District Court of Starr County, Texas using the CM/ECF system for the Clerk of Court for the District Court of Starr, Texas which will send notification of such filing to all counsel of record.

/s/Jaime A. Saenz

JAIME A. SAENZ